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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jay S. Walker

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7590

04/09/2007

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EXAMINER

VU, NGOC K

ART UNIT

PAPER NUMBER

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/660,579	<b>Applicant(s)</b> WALKER ET AL.	
	<b>Examiner</b> Ngoc K. Vu	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,10-12,14,15,32-36,38,39 and 41-43 is/are pending in the application.
- 4a) Of the above claim(s) 38 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,10-12,14,15,32-36 and 41-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

1. Applicant's arguments filed 1/31/07 have been fully considered and are persuasive. Therefore, the previous rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Pocock (US 5,661,787 A) and Throckmorton (US 5,818,441).

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 14-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows.

Claim 14 is drawn to a computer-readable medium embodying functional descriptive material. However, the claim does not define any structural and functional interrelationships between a computer program and other claimed elements of a computer which permit the computer program's functionality to be realized, and is thus non-statutory for that reason.

***Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1, 2, 10-12, 14, 15, and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (US 5,438,355 A) in view of Pocock (US 5,661,787 A) and further in view of Throckmorton et al. (US 5,818,441 A).

Regarding **claim 1**, Palmer discloses a data processing apparatus for providing supplemental broadcast information (see figure 1), comprising:

a CPU (computer 12);

a storage device (within computer 12) operatively connected to said CPU;

an apparatus (fax/phone switch 18), adapted for communication with said CPU (12), for receiving a request from a caller over a telephone network (receiving a request from a user via telephone line 16) for supplemental information related to a broadcast television program and for replaying the request to said CPU (switch 18 receives a request for information regarding to TV programming and relaying the request to the computer 12 – see figure 1 and col. 1, lines 56-60; col. 2, lines 45-55); and

said storage device storing a program, adapted to be executed by said CPU, for processing the request for supplemental information and for transmitting the requested supplemental information through said apparatus (the computer 12 inherently comprises a memory for storing a program/software or instructions which can be read by and executed by the computer 12 for processing the request for information regarding to TV programming and for transmitting the requested information through the switch 18 – see figure 1; col. 2, lines 45-55).

Palmer does not explicitly disclose transmitting the requested supplemental audio information to a speaker of a telephone. However, in a system for on-demand remote access, a user can use his/her telephone to call a designated telephone number advertised by broadcast station to listen to excerpts of music pieces associated with broadcast music program, and/or purchase music product as disclosed by Pocock (see col. 1, lines 7-19; col. 2, lines 35-40 and

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64-66; col. 5, lines 3-15; col. 11, lines 26-40; col. 13, lines 62-67; col. 14, lines 35-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer by transmitting the requested excerpts of music pieces or the requested audio information to a telephone as disclosed by Pocock in order to enable consumer preview excerpts of music pieces of the music product to purchase the music product through the telephone in a convenient manner.

Palmer does not explicitly disclose synchronizing the supplemental audio information. However, Throckmorton discloses synchronizing primary data with associated data, wherein the associated data includes content that is relevant to the primary data (see col. 3, lines 52-59; col. 4, lines 52-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer and Pocock by synchronizing the primary data with associated data as disclosed by Throckmorton in order to effectively provide the associated data to enhance the primary data.

Regarding **claim 2**, Palmer as modified by Pocock further discloses providing supplemental audio information comprises audio information (music pieces) recorded on recording medium (see col. 4, lines 14-22; col. 8, lines 25-32).

Regarding **claim 10**, Palmer discloses a method for providing supplemental information and broadcast television program using a CPU (providing TV program and information regarding to TV programming using a computer 12 - see col. 1, lines 56-61 and figure 1), and a storage device (within computer 12) operatively connected to the CPU and containing a program adapted to be executed by the CPU for processing a request for supplemental information (the computer 12 inherently comprises a memory for storing a program/software or instruction which can be read by and excused by the computer 12 for processing the request for information regarding to

TV programming – see figure 1; col. 2, lines 45-55), and an apparatus (switch 18) adapted for communicating with the CPU (see figure 1), said method comprising the steps of:

receiving a request for supplemental information from a caller via the apparatus  
(receiving a request for information regarding the TV programming from a user via the switch 18 – see col. 2, lines 45-55 and figure 1);

receiving selection information from the caller via the apparatus and processing the selection information by having the CPU execute the program to determine requested supplemental information (computer 12 receives a request information from the user via switch 18 and processing the request by having the computer 12 execute the instruction – see col. 2, lines 45-55 and figure 1);

communicating the requested information via the apparatus (the retrieved information is sent in response to the request from the user via the switch 18 – see col. 2, lines 52-55).

Palmer does not explicitly disclose transmitting the requested supplemental audio information to a speaker of a telephone. However, in a system for on-demand remote access, a user can use his/her telephone to call a designated telephone number advertised by broadcast station to listen to excerpts of music pieces associated with broadcast music program, and/or purchase music product as disclosed by Pocock (see col. 1, lines 7-19; col. 2, lines 35-40 and 64-66; col. 5, lines 3-15; col. 11, lines 26-40; col. 13, lines 62-67; col. 14, lines 35-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer by transmitting the requested excerpts of music pieces or the requested audio information to a telephone as disclosed by Pocock in order to enable consumer preview excerpts of music pieces of the music product to purchase the music product through the telephone in a convenient manner.

Palmer does not explicitly disclose receiving synchronization information and synchronizing the supplemental audio information with an audio component of the broadcast television program using the synchronization. However, Throckmorton discloses synchronizing primary data with associated data using synchronization information, wherein the associated data includes content that is relevant to the primary data. It is noted that the primary data is television program comprising audio and/or video (see col. 3, lines 52-59; col. 4, lines 52-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer and Pocock by synchronizing the primary data with associated data as disclosed by Throckmorton in order to effectively provide the associated data to enhance the primary data.

Regarding **claims 11 and 12**, Palmer discloses database 20 management as it relates to billing, viewer habit data, request history, etc (see col. 3, lines 33-40).

Regarding **claims 14 and 15**, it is to be noted that the combined system of Palmer, Pocock, and Throckmorton is provided with computer program or software stored on a computer readable medium to make the system perform the functions as discussed in claim 10 above.

Regarding **claim 32**, Palmer discloses a method of receiving supplemental information related to a broadcast television program including an audio component and an video component (receiving information regarding a TV programming including an audio component and a video component – see col. 1, lines 56-61), comprising the steps of:

viewing the broadcast television program (viewing TV programming – see col. 1, lines 56-59);

receiving ordering information for the supplemental information from the broadcast television program (receiving ordering information for the information from TV programming such

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as program identification codes PIC and console identification codes CIC – see figure 1; col. 2, lines 45-55; col. 3, lines 5-12 and 33-35);

requesting the supplemental information in accordance with the ordering information (requesting computer 12 to retrieve the information regarding TV programming from database 20 in accordance with the ordering information - see figure 1 and col. 1, lines 56-60; col. 2, lines 45-55);

providing selection information (providing a record of a polling choice – see col. 4, lines 22-23);

receiving the supplemental information during the broadcast television program (receiving the selected information regarding TV programming during the TV programming – see col. 1, lines 56-61; col. 2, lines 52-55).

Palmer does not explicitly disclose transmitting the requested supplemental audio information to a speaker of a telephone. However, in a system for on-demand remote access, a user can use his/her telephone to call a designated telephone number advertised by broadcast station to listen to excerpts of music pieces associated with broadcast music program, and/or purchase music product as disclosed by Pocock (see col. 1, lines 7-19; col. 2, lines 35-40 and 64-66; col. 5, lines 3-15; col. 11, lines 26-40; col. 13, lines 62-67; col. 14, lines 35-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer by transmitting the requested excerpts of music pieces or the requested audio information to a telephone as disclosed by Pocock in order to enable consumer preview excerpts of music pieces of the music product to purchase the music product through the telephone in a convenient manner.

Palmer does not explicitly disclose synchronizing the supplemental audio information with the broadcast television program. However, Throckmorton discloses synchronizing primary data



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with associated data, wherein the associated data includes content that is relevant to the primary data. It is noted that the primary data is television program comprising audio and/or video (see col. 3, lines 52-59; col. 4, lines 52-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer and Pocock by synchronizing the primary data with associated data as disclosed by Throckmorton in order to effectively provide the associated data to enhance the primary data.

Regarding **claim 33**, Palmer discloses that PIC and CIC including program identification information, billing information, phone numbers, credit card numbers, etc (see col. 3, lines 5-12 and 33-35). Field discloses that an audio encoder and combiner 12 receives an audio control signal ACTL from an audio encode control 14, and the encoder and combiner 12 combines the normal audio signal associated with video program and additional audio signal to form a composite audio signal under the control of the control signal ACTL (see col. 5, lines 45-48; col. 6, lines 30-34).

Regarding **claims 34-35**, Palmer discloses the payment of interactive services via credit card (see col. 2, lines 3-6; col. 3, lines 33-40).

Regarding **claim 36**, Palmer does not explicitly disclose billing via a telephone bill. Official Notice is taken that it is well known in the art to provide for interactive services via telephone companies as part of a consolidated billing arrangement. It would have been obvious to one of ordinary skill in the art to modify the system of Palmer to do so in order to eliminate the necessity for plural bills.

6. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (US 5,438,355 A) in view of Pocock (US 5,661,787 A) and further in view of Throckmorton et al. (US 5,818,441 A) and in view of Field et al (US 4,410,911).

Regarding **claim 42**, Palmer discloses an apparatus (see figure 1), comprising:

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a CPU (computer 12);

a storage device (within the computer 12) operatively connected to said CPU;

an receiver (fax/phone switch 18) for receiving a request for supplemental information related to a television program and for replaying the request to said CPU (switch 18 receives a request for information regarding to TV programming and relaying the request to the computer 12 – see figure 1 and col. 1, lines 56-60; col. 2, lines 45-55); and

a program, adapted to be executed by said CPU, for processing the request for supplemental information and for transmitting the requested supplemental information (a program/software or instruction which can be read by and excused by the computer 12 for processing the request for information regarding to TV programming and for transmitting the requested information – see figure 1; col. 2, lines 45-55).

Palmer does not explicitly disclose transmitting the requested supplemental audio information to a speaker of a telephone. However, in a system for on-demand remote access, a user can use his/her telephone to call a designated telephone number advertised by broadcast station to listen to excerpts of music pieces associated with broadcast music program, and/or purchase music product as disclosed by Pocock (see col. 1, lines 7-19; col. 2, lines 35-40 and 64-66; col. 5, lines 3-15; col. 11, lines 26-40; col. 13, lines 62-67; col. 14, lines 35-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer by transmitting the requested excerpts of music pieces or the requested audio information to a telephone as disclosed by Pocock in order to enable consumer preview excerpts of music pieces of the music product to purchase the music product through the telephone in a convenient manner.

Palmer does not explicitly disclose synchronizing the supplemental audio information with the broadcast television program. However, Throckmorton discloses synchronizing primary data

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with associated data, wherein the associated data includes content that is relevant to the primary data. It is noted that the primary data is television program comprising audio and/or video (see col. 3, lines 52-59; col. 4, lines 52-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer and Pocock by synchronizing the primary data with associated data as disclosed by Throckmorton in order to effectively provide the associated data to enhance the primary data.

Palmer does not teach providing the supplemental audio information comprised a foreign language version of the television program. However, Field discloses transmitting simultaneously at least an additional audio signal with normal audio signal associated with video program, e.g., audios in different languages accompanying a television video program (see col. 3, lines 35-55; col. 5, lines 45-48; col. 6, lines 30-34; col. 15, lines 35-60). It would have been obvious to one of ordinary skill in the art to modify the system of Palmer by transmitting the additional audio signal with normal audio signal associated with video program, e.g., audios in different languages accompanying a television video program, as disclosed by Field in order to enable user understanding the content of the program in a selected language.

7. Claims 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (US 5,438,355 A) in view of Pocock (US 5,661,787 A) and further in view of Throckmorton et al. (US 5,818,441 A) and Kurtz (The New York Times, April 14, 1991, Section 3, page 8 - "Technology; A Way to Hear Stock Quotes While Watching Cartoons").

Regarding **claims 41 and 43**, Palmer discloses an apparatus (see figure 1), comprising:

- a CPU (computer 12);
- a storage device (database 20) operatively connected to said CPU (12);
- an receiver (fax/phone switch 18) for receiving a request for supplemental information related to a television program and for replaying the request to said CPU (switch 18 receives a

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request for information regarding to TV programming and relaying the request to the computer 12 – see figure 1 and col. 1, lines 56-60; col. 2, lines 45-55); and

a program, adapted to be executed by said CPU, that is stored on the storage device and that is for processing the request for supplemental information and for transmitting the requested supplemental information (a program/software or instructions which can be read by and excused by the computer 12 for processing the request for information regarding to TV programming and for transmitting the requested information – see figure 1; col. 2, lines 45-55).

Palmer does not explicitly disclose transmitting the requested supplemental audio information to a speaker of a telephone. However, in a system for on-demand remote access, a user can use his/her telephone to call a designated telephone number advertised by broadcast station to listen to excerpts of music pieces associated with broadcast music program, and/or purchase music product as disclosed by Pocock (see col. 1, lines 7-19; col. 2, lines 35-40 and 64-66; col. 5, lines 3-15; col. 11, lines 26-40; col. 13, lines 62-67; col. 14, lines 35-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer by transmitting the requested excerpts of music pieces or the requested audio information to a telephone as disclosed by Pocock in order to enable consumer preview excerpts of music pieces of the music product to purchase the music product through the telephone in a convenient manner.

Palmer does not explicitly disclose synchronizing the supplemental audio information. However, Throckmorton discloses synchronizing primary data with associated data, wherein the associated data includes content that is relevant to the primary data (see col. 3, lines 52-59; col. 4, lines 52-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer and Pocock by synchronizing the

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primary data with associated data as disclosed by Throckmorton in order to effectively provide the associated data to enhance the primary data.

Neither Palmer nor Throckmorton discloses the supplemental information comprising supplemental dialogue for a character within the television program and/or descriptive audio version of the television program for the visual impaired. However, Kurtz discloses in The New York Times article that television station supplies audio descriptions and commentary for visually impaired about some of its program. Namely, during movie "Singing in the Rain", viewers learned that while Gene Kelly was being filmed singing in the rain, it was actually daytime and sunny. The commentary does not interrupt the dialogue but speaks over it (see "The New York Times" IDS – page 3, 5<sup>th</sup> paragraph; page 4, last paragraph to page 5, 1<sup>st</sup> paragraph). It would have been obvious to one of ordinary skill in the art to modify the system of Palmer by providing audio commentary for a character within showing movie and/or a descriptive audio version of the TV program as disclosed by Kurtz for the visual impaired purposes.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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NGOC K. VU  
PRIMARY EXAMINER  
Art Unit 2623

April 2, 2007